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10/589,937	04/16/2008	Yoshimasa Tameishi	07200/082001	2367
22511	7590	10/27/2009		
OSHA LIANG L.L.P. TWO HOUSTON CENTER 909 FANNIN, SUITE 3500 HOUSTON, TX 77010			EXAMINER OSTERHOUT, BENJAMIN LEE	
			ART UNIT	PAPER NUMBER
			1792	
			NOTIFICATION DATE	DELIVERY MODE
			10/27/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/589,937	Applicant(s) TAMEISHI ET AL.
	Examiner BENJAMIN OSTERHOUT	Art Unit 1792

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 July 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20090721, 20090420</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: the last line of claim 1 claims "the bracket" this lacks antecedent basis but is not severe, Examiner suggests amending the claim to read "a bracket". Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent Application Publication No. 54-11751 to Shibata et al. in view of Japanese Patent Application Publication No. 4-40931 to Masataka et al. in view of

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Japanese Utility Laid Open Application No. H6-0068663 to Kito in further view of Japanese Patent Application Publication 2003180597 to Toga.

Regarding claims 1 and 2, Shibata et al. teaches a dishwashing machine (English translation, claim 1, line 1, provided by Applicant); a washing water pipe in the washing chamber on which the washing nozzles are installed (Fig. 2, part 12); a rinsing water pipe arranged within the washing water pipe on which the rinsing nozzles are installed (Fig. 2, part 16); the washing water pipe is also connected to a first connecting pipe (Fig. 2, part 11) which is connected to a washing water outlet provided on the pump chamber (Fig. 2, part 2) of the washing water supply pump (Fig. 2, part 9); and the rinsing water pipe is also connected to a second connecting pipe (Fig. 2, part 15) which is arranged within the first pipe which is connected to a rinsing water outlet which one of ordinary skill in the art realizes that a rinsing water supply pump exists to pump the rinsing water but is not illustrated in the Figures. Shibata does not teach that the washing water pipe is removably attached to the washing water outlet/pipe and that the rinsing water pipe is removably attached to the rinsing water outlet/pipe; that the washing water supply pump is installed in a front surface of the washing water tank so that an inlet and an outlet of the washing water supply pump are positioned within the washing water tank; wherein the washing water distribution pipe comprises a main line portion from the upstream end passing through a rear of the washing chamber to a top portion of an interior of the washing chamber, and an upper upstand pointing directly downwards in a center of the top portion, and the washing water distribution pipe further comprises a lower upstand directly below the upper upstand branching from the main

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line portion and pointing directly upwards; and wherein the main line portion of the washing water distribution pipe is fixed to the rear surface of the washing chamber by the bracket.

Masataka et al. teaches a dishwasher (Fig. 1, generally) wherein the water supply pipes are detachable/attachable (English translation, Abstract, Purpose, ll. 1-6; Fig. 2, generally, Fig. 1, parts 11 and 13) wherein this includes an upstream end of the washing water distribution pipe.

Because both Shibata et al. and Masataka et al. teach how a dishwasher water supply pipe may be attached to the water outlet/pipe (permanent vs. removable), it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute one way of attaching the pipe for the other to achieve the predictable result of supplying water to the supply pipes in order to clean the dishes within the dishwasher.

Furthermore, let it be noted that the MPEP is very clear that making components separable may not rise to the level of non-obviousness if it were desirable for any reason to obtain access to a component. See MPEP 2144.04 V, C.

Shibata et al. does not teach that the water supply pump is installed in a front surface of the washing water tank so that an inlet and outlet of the washing water supply pump are positioned within the washing water tank.

However, this is a mere rearrangement of parts that would have been an obvious design choice to one of ordinary skill in the art at the time of the invention and has not been shown to modify the operation of the device whereby moving the pump to the front of the washing machine would still achieve the predictable result of pumping the rinse

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and washing water. See MPEP 2144.04 C. See also *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950) and *In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975).

Shibata et al. does not teach that the washing water distribution pipe comprises a main line portion from the upstream end passing through a rear of the washing chamber to a top portion of an interior of the washing chamber, and an upper upstand pointing directly downwards in a center of the top portion, and the washing water distribution pipe further comprises a lower upstand directly below the upper upstand branching from the main line portion and pointing directly upwards

Kito teaches a dishwasher (Fig. 1, generally) wherein the washing water distribution pipe has a mainline portion (Fig. 2, part 14); a top portion (Fig. 2, part 14A) which extends into the interior of the dishwasher which supplies water to the top nozzles/spray arms (Fig. 2, part 25 and 26); and a bottom portion (Fig. 2, part 20) which extends into the interior of the dishwasher which supplies water to the bottom nozzles/spray arms (Fig. 2, part 21 and 22) whereby one of ordinary skill in the art realizes that the greater number of nozzles/spray arms creates a greater cleaning affect due to the increase of washing water volume and cycling.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the dishwasher with the mainline portion; top portion; bottom portion; and added nozzles/spray arms in order to increase the volume of washing water and thereby more effectively clean the ware.

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Shibata et al. in view of Kito does not teach that the main line portion of the washing water distribution pipe is fixed to the rear surface of the washing chamber by the bracket.

Toga teaches a dishwasher with a (Fig. 3, generally) wherein a bracket is used to attach the mainline portion of the washing water distribution pipe to the dishwasher wherein one of ordinary skill in the art at the time of the invention realizes that the bracket secures said pipe away from the working components of the dishwasher and improves reliability.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the dishwasher of Shibata et al. in view of Kito with the bracket of Toga in order to secure the mainline portion of the water distribution pipe away from the working components of the dishwasher and improve reliability.

Regarding claim 3, Shibata et al. teaches that the first connecting pipe (Fig. 2, part 11) is provided on a casing (Fig. 2, part 2) that houses an impeller (Fig. 2, part 7) of the washing water supply pump (Fig. 2, part 9), and that the second connecting pipe (Fig. 2, part 15) extends from within the first connecting pipe through the casing to the outlet supply of the rinsing water supply pump which is not shown, but however, one of ordinary skill realizes exists in order to pump the rinsing water.

Regarding claim 4, Shibata et al. teaches that the casing (Fig. 2, part 2) houses an impeller (Fig. 2, part 7) of the washing water supply pump (Fig. 2, part 9), and that the washing water pipe (Fig. 2, part 12) is connected to the first connecting pipe (Fig. 2, part 11) provided on the casing (Fig. 2, part 2). Shibata et al. does not teach that the

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casing is removably attached. However, the MPEP is very clear that making components separable may not rise to the level of non-obviousness if it were desirable for any reason to obtain access to a component. See MPEP 2144.04 V, C. Therefore, one of ordinary skill in the art realizes that it may be necessary to gain access to the impeller or internal components of the washing water supply pump and in doing so it may be necessary to removably attach the casing. Applicant should note that novelty does not equate to patentability, the invention must also be non-obvious. Applicant has yet to show non-obviousness through—for instance—a secondary consideration.

Examiner's Response to Arguments

Examiner has carefully and thoroughly reviewed Applicant's arguments in support of patentability, however, Examiner remains unconvinced. Examiner has updated the grounds of rejection as necessitated by Applicant's amendment. Examiner would like to note that Applicant has cured the deficiency with regard to the abstract of the disclosure. With regard to Applicant's claim 1, Examiner notes that that novelty does not equate to patentability, the invention must also be non-obvious and with this in mind Examiner has painstakingly considered Applicant's secondary considerations. On page eight of the response, Applicant notes the secondary considerations of increased capacity ("a large space for dishes in the washing chamber can be obtained") and accessibility ("...can be utilized in the washing chamber, so that handling is very easy"). The goal of increased capacity is ever present. Applicant would more than likely agree that if an inventor created a dishwasher pump half the size of conventional pumps but

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could handle/pump the same capacity of washing fluid and the design was the same yet smaller, inventor should not be awarded a patent based upon an ever present goal unless inventor thoroughly vetted the inventive step and patentable technical feature, i.e. why the pump is patentable over the prior art. With the second secondary consideration concerning accessibility, the need is thoroughly realized as the dishwasher of this design is commercial and requires maintenance wherein parts may need to be replaced in a timely manner. Therefore, Examiner remains unconvinced. Applicant has not thoroughly distinguished the current claims from the prior art.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to BENJAMIN OSTERHOUT whose telephone number is (571)270-7379. The examiner can normally be reached on Monday-Thursday 8:30am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph L. Perrin/
Joseph L. Perrin, Ph.D.
Primary Examiner
Art Unit 1792

/BLO/

Benjamin L. Osterhout
21 October 2009